

U. S. DEPARTMENT OF AGRICULTURE
Commodity Credit Corporation

1. Agreement No. _____

EXTRA LONG STAPLE COTTON DOMESTIC USER/EXPORTER AGREEMENT
(Revision 1)

NOTE: The authority for collecting the following information is Pub. L. 107-171. This authority allows for the collection of information without prior OMB approval mandated by the Paperwork Reduction Act of 1995. The time required to complete this information collection is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

THIS AGREEMENT, made and entered into by and between Commodity Credit Corporation, a corporate agency of the United States ("CCC"), and

2. NAME OF DOMESTIC USER/EXPORTER:	
3. MAILING ADDRESS OF DOMESTIC USER/EXPORTER:	4. PAYEE NAME AND ADDRESS (PAYMENT):
5. STREET ADDRESS, CITY, STATE, OF RECORD KEEPING OFFICE:	
6. TAXPAYER ID NO. AND TYPE : <input type="checkbox"/> SSN <input type="checkbox"/> Taxpayer ID No.	
7A. NAME OF CONTACT PERSON:	7B. TELEPHONE NO. (Include Area code):
	7C. FAX NO. (Include Area code):
	7D. E-MAIL:
8. DOMESTIC USER/EXPORTER MULTIPLE TRADE NAMES AND LOCATIONS:	
A. TRADE NAMES	B. LOCATIONS (ADDRESS)

9. CHECK ONE BOX: DOMESTIC USER ☐ EXPORTER ☐

("Domestic User or Exporter", as applicable) is for the purpose of authorizing the Domestic User or Exporter to participate in the Special Competitiveness Provisions for Extra Long Staple Cotton as authorized by the Farm Security and Rural Investment Act of 2002.

SECTION A. GENERAL

Section A-1. General Provisions

- (a) Beginning with the effective date of this Agreement, the Commodity Credit Corporation (CCC) will, in accordance with the terms and conditions of this Agreement and regulations promulgated by CCC, make payments in the form of certificates or cash, as designated by the Domestic User or Exporter named above. Such payments will be made for eligible cotton in accordance with the regulations found in 7 CFR Part 1427 governing the Extra Long Staple (ELS) Cotton Competitiveness Payment Program.
- (b) No payments in excess of those allowed by legislation will be issued by CCC.

Section A-2. Eligible and Ineligible Cotton

- (a) For the purposes of this Agreement, eligible cotton shall be domestically produced baled ELS cotton which must be one of the following:
 - (1) baled lint;
 - (2) loose: samples removed from ELS cotton bales for classification purposes which have been rebaled;
- (b) For the purposes of this Agreement, the following types of cotton are not eligible:
 - (1) lint cleaner waste resulting from the ginning process (“motes”);
 - (2) lint produced from the cottonseed crushing process (“linters”);
 - (3) imported cotton;
 - (4) textile mill wastes;
 - (5) waste from the mote cleaning process (“pills”);
 - (6) any eligible cotton which has been blended with textile mill waste or other fibers, including motes, linters and pills;
 - (7) upland cotton; or
 - (8) cotton not listed as eligible in this Agreement.

Section A-3. Completion and Execution of the Agreement

To be eligible for payment, Domestic Users and Exporters must submit an original and one copy of this Agreement for approval and execution by CCC. An Agreement must be completed for each Taxpayer Identification Number. Submit Agreements to the Financial Review Branch, Contract Reconciliation Division (FRB/CRD), Kansas City Commodity Office (KCCO). An executed copy of the approved Agreement will be returned to the Agreement holder.

General operational and policy questions regarding the ELS Cotton Competitiveness Payment Program should be directed to the Farm Service Agency, Financial Review Branch, Contract Reconciliation Division, Kansas City Commodity Office, telephone (816) 926-6663 or at the address listed in Section A-8.

Section A-4. Payment Rate

- (a) The general payment rate shall be based in accordance with the regulations found in 7 CFR Part 1427 governing the ELS Cotton Competitiveness Payment Program.
- (b) The payment rate for eligible ELS cotton will be announced by CCC each Thursday afternoon and shall apply to all bales consumed by Domestic Users and export shipments made by Exporters between 12:01 a.m. Friday through Midnight of the following Thursday (hereinafter called "rate week"). ELS Cotton Competitiveness Payment Program rates may be accessed by Agreement Holders through the following Internet Address: <http://www.fsa.usda.gov/pas/news/releases/index.htm>
- (c) All qualities of eligible ELS cotton will earn the same per pound payment rate.

Section A-5. Issuance of Payments

After receipt of the application for payment, together with required supporting documents, CCC will issue payments in an amount determined by multiplying the per pound payment rate determined in accordance with Section A-4 of this Agreement times the net pounds determined in accordance with Section B-4 or C-4, as applicable, of this Agreement. If a cash payment is not made within 30 days of receipt of valid documentation demonstrating eligibility, CCC will pay interest at the prompt payment interest rate.

Section A-6. Excessive Payment

If the Domestic User or Exporter receives a payment in excess of the entitled payment in accordance with this Agreement, the Domestic User or Exporter shall refund to CCC an amount equal to the excess payment, plus interest thereon, as determined by CCC.

Section A-7. Record Retention and Access

From the effective date of this Agreement until the earlier of three years after the termination date of this Agreement or July 31, 2011, the Domestic User or Exporter shall keep records and furnish such information and reports relating to this Agreement as may be requested by CCC. Periodically CCC may require Agreement Holders to forward to KCCO copies of any and all records which supports the Agreement Holder's claims for payment. Such records shall be available at all reasonable times for an audit or inspection by authorized representatives of CCC, United States Department of Agriculture, or the Comptroller General of the United States. Failure to keep, or make available, such records may result in termination of this Agreement by CCC and refund to CCC of all payments received, plus interest thereon, as determined by CCC.

Section A-8. Submission of Documents

- (a) **Submit ALL ELS COTTON DOMESTIC USER/EXPORTER DOCUMENTS to the Financial Review Branch, Contract Reconciliation Division, KCCO.**

Mailing Address:	Express Mail Address:
U.S. Department of Agriculture Farm Service Agency FRB/CRD Mail Stop 8758 Kansas City Commodity Office P.O. Box 419205 Kansas City, Missouri 64141-6205 Phone Number: (816)-926-6663	U.S. Department of Agriculture Farm Service Agency FRB/CRD Kansas City Commodity Office Room G-42, Mail Stop 8758 6501 Beacon Drive Kansas City, Missouri 64133-4675 Office Hours: 7:00 - 4:30 Phone Number: (816)-926-6663

- (b) All documents submitted to CCC for this program must be legible, accurate, and contain the Agreement number assigned by CCC.

- (c) Applications for payment will be processed according to the date stamped received on the application by KCCO upon receipt. An application/report will not be considered received by CCC until such time as it has been submitted without error, and completed in full.
- (d) CCC may request documents in electronic format as systems are developed.

Section A-9. Regulations and Other Authorities

Provisions of this Agreement are subject to applicable laws and authorities including but not limited to:

7 CFR Part 780, Appeal Regulations
7 CFR Part 1427, Cotton
7 CFR Part 1401, Commodity Certificates and In-Kind Payments, and other Forms of Payment

Section A-10. Term of Agreement

This Agreement will continue in force until it is terminated in writing by CCC or at the mutual agreement of the parties. CCC may also terminate this Agreement without prior written notice when required to do so by programmatic requirements, expiration of authorizing legislation, or exhaustion of funds.

Section A-11. Program Violations

If the Domestic User or Exporter is suspected by CCC to have knowingly: (1) adopted any scheme or device which violates this Agreement; (2) made any fraudulent representation; or (3) misrepresented any fact affecting a determination under this Agreement, CCC will notify the appropriate investigating agencies of the United States and may terminate the Agreement with a full refund of payments plus interest and debar the offending company from further government participation as deemed necessary to protect the interests of the government. No Member or Delegate of Congress or Resident Commissioner shall be admitted to any share or part of this Agreement or to any benefit to arise therefrom, except that this provision shall not be construed to extend to their interest in any incorporated company, if this Agreement is for the general benefit of such company, nor shall it be construed to extend to any benefit which may accrue to such official in their capacity as a producer.

Section A-12. Appeals

- (a) Domestic Users or Exporters who dispute a KCCO decision may request a review of the decision by the Deputy Administrator, Commodity Operations (DACO), Farm Service Agency. Such request must be in writing and contain the relevant facts upon which the review will be heard and must be received by Deputy Administrator for Commodity Operations (DACO) within 15 days from the date of receipt of the disputed decision. Requests must be directed to:

Director, Warehouse and Inventory Division
Farm Service Agency
U.S. Department of Agriculture
P.O. Box 2415 STOP 0553
Washington, DC 20250-0553
Facsimile 202 690-0014
E-Mail: **Step2@wdc.fsa.usda.gov**

- (b) Domestic Users or Exporters who dispute a review decision by DACO may appeal such decision to the National Appeals Division. Such an appeal must be made within 30 days of receipt of a DACO decision. Such appeal will be conducted in accordance with 7 CFR Part 780 and must be directed to the National Appeals Division.

SECTION B. DOMESTIC USER

Section B-1. Eligible Domestic User

A Domestic User is a person regularly engaged in purchasing eligible ELS cotton for the purpose of manufacturing such cotton into cotton products in the United States. In the event the cotton is not used for that purpose, the payment received shall be returned immediately and with interest.

Section B-2. ELS Cotton Eligible for Payment

ELS cotton eligible for payment is cotton consumed by the Domestic User in the United States on or after the effective date of this Agreement during the rate week in which a positive payment rate, as determined in accordance with Section A-4 of this Agreement, is in effect.

Section B-3. Date of Consumption

- (a) The payment rate is the rate in effect on the date of consumption. The date of consumption is the date the bagging and ties are removed from the bale.
- (b) Eligible ELS cotton will be considered consumed by the Domestic User on the date the bagging and ties are removed from the bale in the normal opening area, immediately prior to use, in a building or collection of buildings where the cotton in the bale will be used in the continuous process of manufacturing the cotton into cotton products.
- (c) Some Domestic User's official company records may show bales in the consumption process either a few hours before or after the physical removing of bagging and ties. This is permissible provided the same method of reporting is consistently used each week.
- (c) When bales are designated to be dyed, they shall be considered consumed when bagging and ties are removed immediately prior to the cotton entering the dyeing process.

Section B-4. Determining the Quantity of Eligible ELS Cotton

The quantity of eligible ELS cotton with respect to which a payment is made available in accordance with this Agreement shall be determined based upon the net weight of each bale of eligible ELS cotton (gross weight minus the weight of the bagging and ties). The net bale weight shall be determined based upon the net pounds as shown on the purchase invoice on which settlement for payment was made, supported by weight sheets including a detailed list of bale numbers.

Section B-5. Weekly Consumption /Application for Payment Report

- (a) The Domestic User must report the activity for each rate week beginning on the effective date of the Agreement on a Weekly Consumption/Application for Payment Report (CCC1045ELS-1) hereafter referred to as the Application/Report. The Application/Report must be submitted no later than close of business (COB) Wednesday, following each rate week even when no payment is being earned. If the Domestic User's facility is temporarily closed for any reason, a negative Application/Report must be submitted the week prior to or after the plant closing occurs. Failure to submit Application/Reports will result in delays in payments until all delinquent Application/Reports are received. The Application/Report, and any other required documents received from a Domestic User that contain errors or omissions will not be processed for payment.
- (b) The Application/Report must contain the following information:
 - (1) Date – Show the date the Application/Report is submitted to CCC;
 - (2) Agreement Number – Show your Agreement number assigned by CCC, e.g., Y-1234
 - (3) Company Name – Show the name from your Agreement;
 - (4) Contact – Show individual name and phone number;
 - (5) Rate week Consumption Dates – Show the applicable dates, e.g., May 2, 2003 through May 8, 2003;

- (6) Payment Rate – When there is a payment rate in effect, show the announced payment rate for specified dates. A zero payment rate must be shown as “0”;

The payment amount is computed as follows:

$$(\text{Net Pounds Consumed}) \times (\text{Announced Payment Rate})$$

- (7) Type of Cotton – Show the type of cotton as lint or loose with the number of bales, net pounds on which settlement for payment was based for each type of cotton consumed, and when there is a payment rate in effect, computed payment amount along with a grand total amount due; and
- (8) Certification Statement and Signature – Include the following signed certification statement on the Application/Report:

“I hereby certify that this document and all supporting documents (when required) are being submitted in accordance with the terms of the ELS Cotton Domestic User/Exporter Agreement and that the cotton covered by this Application/Report was domestically produced, has not previously earned a payment under the ELS Cotton Competitiveness Payment Program, and is eligible for a payment, if applicable.”

Authorized Representative

Section B-6. Penalties for Late Submission of Applications for Payment

Applications for payment submitted after COB Wednesday following the rate week will be considered late by CCC and receive payment at the lesser of the payment rate for the rate week, or the submission date. If not submitted within 30 days after COB Wednesday following the rate week, the payment rate will be ZERO. If late submission of Application/Report for payment is beyond the control of the Domestic User, relief may be requested by contacting the Financial Review Branch, Contract Reconciliation Division, KCCO.

Section B-7. Maintenance of Records

In addition to the records requirements in Section A-7, the Domestic User must maintain the following records for all cotton consumed:

- (a) A detailed list of bale numbers and the “landed” net weights identified by the type of cotton;
- (b) Documentation supporting the acquisition of cotton, including a register of purchase contracts, amendments, and cancellations. Records must show the number of bales received each week by type of cotton supported by purchase contracts and weight sheets documenting the “landed” net weight when received at the mill.
- (c) Documentation that provides the capability to trace the “consumed bale weight” back to the source purchase contract documents showing the “landed” net weight;
- (d) A weekly consumption listing which contains a detailed list of bales consumed weekly showing the bale numbers and net weights on which settlement for payment was based for each type of cotton (baled lint or loose). The weekly consumption listing must cross-reference the purchase invoice number; and
- (e) Documentation supporting the acquisition, consumption and disposition of ineligible ELS cotton and upland cotton.

SECTION C - EXPORTERS

Section C-1. Eligible Exporter

An eligible exporter is a person, including producers or cooperative marketing associations, regularly engaged in exporting cotton from the United States.

Section C-2. ELS Cotton Eligible for Payment

ELS cotton eligible for payment is cotton for which no payment under this program, either to a domestic user or to an exporter, has been paid, and which is shipped by an eligible Exporter on or after the effective date of this Agreement during the rate week in which a positive payment rate, as determined in accordance with Section A-4 of this Agreement, is in effect.

Section C-3. Date of Export

- (a) Eligible ELS cotton will be considered exported based on the on-board-vessel-date as shown on the bill of lading.
- (b) For intermodal shipments, the date that the containers are placed on board the vessel, will be used as the date of export. Intermodal shipments must be clearly identified.
- (c) For truck and rail shipments to Canada or Mexico, the date the shipment crosses the international border will be used as the date of export.

Section C-4. Determining the Quantity of Eligible ELS Cotton

- (a) The quantity of eligible ELS cotton with respect to which a payment is made available in accordance with this Agreement shall be determined based upon the net weight of each bale of eligible cotton (gross weight minus the weight of the bagging and ties).
- (b) The net bale weight shall be determined based upon the net pounds as shown on the purchase invoices on which settlement for payment was made, supported by the applicable weight/tag lists showing the warehouse receipt weights of the shipping warehouse or gin weights if the cotton was not placed in a warehouse, or the reweights certified by a licensed weigher. When an exporter's weight sheet lists a greater total net weight claimed for payment than the net weight shown on the sales invoice, a letter of explanation will be required. Franchised or inflated weights will not be accepted for payments.
- (c) Exported dyed cotton must be clearly identified and supported by the pre-dyed bale tag list and the post-dyed bale tag list. Payment claims must be based on the pre-dyed net bale weight.

Section C-5. Proof of Export

- (a) The exporter must furnish CCC the following:
 - (1) Form CCC-1045ELS-2, ELS Cotton Competitiveness Payment Program Exporter Application for Payment, shall be prepared for all positive pay shipments based on the date of export. Blank copies of the CCC-1045ELS-2, may be reproduced by the Exporter as needed. Computer printouts in the same format as the CCC-1045ELS-2, are acceptable. Form CCC-1045ELS-2, and other required documents received from an Exporter that contain errors or omissions will not be processed for payment.
 - (2) A copy of the bill of lading must include: the on-board vessel date in accordance with Section C-3, bill of lading number, bales and pounds exported for each type of eligible cotton, vessel name, port of export, destination, and exporter and consignee/notify party. The bill of lading must be signed. When an Exporter has multiple Bills of Lading on one invoice, the invoice must be copied to show the bales and pounds to be applied for each Bill of Lading. Each Bill of Lading will be treated as a single shipment.

- (3) For eligible cotton exported to Canada or Mexico by truck or rail, a copy of the bill of lading must be submitted. The bill of lading must include car or truck number, bales and pounds exported for each type of eligible cotton, origin shipping location, destination and exporter and consignee/notify party. Documentation evidencing the date the shipment crossed the border issued by an independent third party, such as a freight forwarder, will be required on these shipments. Documents such as a Mexican Pedimento de Importacion or similar document such as the Cargo Release Control Document are also acceptable but not required for payment. These supporting documents must be maintained and available for review in the exporter's files.
- (4) Weight sheets which show the following information:
 - (i) a legible detailed list of bale numbers;
 - (ii) the weights of individual bales as shipping warehouse receipt weights, gin weights, or certified reweight sheets if the bales are reweighed at the U.S. port;
 - (iii) certified reweights if individual bales are reweighed at the shipping warehouse and are immediately containerized for intermodal shipment or the bales are shipped to the port for containerization;
 - (iv) grand total of bales, net pounds and gross pounds by type of eligible cotton.
- (5) A copy of the export sale invoice showing the importer name, grand total of bales, and the grand total of net pounds invoiced by type of eligible cotton. When an exporter has multiple sale invoices for one bill of lading, the invoices must be combined for entry as one shipment.
- (6) All documents submitted to CCC must show the assigned Agreement number and application number.
- (b) For any week in which the payment rate derived in accordance with Section A-4 is zero, no applications are required to be submitted to CCC by the Exporter.
- (c) All shipment documents must be maintained by the Exporter and be accessible for review by CCC, including weight sheets for shipments during periods when zero payment rates were in effect.

Section C-6. Payment

- (a) The payment rate is the rate in effect on the date of export in accordance with Section C-3.
- (b) Within 60 calendar days after the date of export, the application for payment CCC-1045ELS-2 and all supporting documents required in Section C-5 must be submitted to CCC. The payment will be calculated by multiplying the payment rate announced for the rate week in which the cotton was shipped times the net weight shown on the weight sheets.
- (c) Failure to submit the required documents within 60 calendar days of the date of export will cause forfeiture of the payment. If late submission of application for payment is beyond the control of the Exporter, relief may be requested by contacting Financial Review Branch, Contract Reconciliation Division, KCCO Section A-8.
- (d) CCC will issue payments only to the Agreement holder submitting applications. Names on supporting documents other than the name of the Agreement holder must be documented as follows:

Company/Trade Name: The Exporter name on the bill of lading may be different from the Agreement holder name if the Exporter operates under multiple trade names. CCC must be advised of the multiple trade names that operate under the same Agreement number when the Agreement is executed; and

Other Name: When a bill of lading is submitted as a supporting document for payment and the shipper of record is different from the Agreement holder making the application for payment, an **original** letter from the shipper of record must be submitted showing:

- | | |
|---|----------------------------------|
| 1. Vessel name or container number | 2. Bill of lading number |
| 3. Bill of lading date | 4. Number of bales/weight |
| 5. A certification that the shipper of record will not claim payment for the cotton shipped | 6. Authorized original signature |

The Agreement holder who has made application for payment agrees to furnish documentation, as deemed necessary by CCC regarding these shipments.

Section C-7. Maintenance of Records

In addition to the records requirements in Section A-7, the exporter must maintain the following records for all export shipments including during periods when zero payment rates were in effect:

- (a) Sales contracts;
- (b) Export reports showing importing country and importer name;
- (c) Bill of lading showing pounds and bales exported by type of cotton and date of export (on-board vessel date);
- (d) Record of bale numbers and bale net weight by type of cotton and origin of cotton;
- (e) Invoices to importers; and
- (f) Exporter's purchase invoices.

10. DOMESTIC USER/EXPORTER:

The Domestic User/Exporter submits this Agreement and agrees to the terms and conditions herein, signed and dated:

(a) _____
PRINT NAME

(b) _____
AUTHORIZED SIGNATURE

(c) _____
TITLE

(d) _____
DATED (MM-DD-YYYY)

11. COMMODITY CREDIT CORPORATION:

This Agreement is executed by CCC and shall be effective (a) _____
(MM-DD-YYYY)

(b) _____
On Behalf of CCC

(c) _____
Date (MM-DD-YYYY)

NOTE: The following statements are made in accordance with the Privacy Act (5 USC 552a). The Farm Security and Rural Investment Act of 2002 (Pub. L. 107-171), and regulations at 7 CFR Part 1427 authorize this agreement and other collections of information required for participation in the ELS Cotton Competitiveness Payment Program. In addition to the already published routine uses, the information will be used to determine eligibility to receive payment and to determine payment amounts. Providing this information is voluntary; however, without it, participation in the program will be denied. This information may be furnished to other USDA agencies, IRS, Department of Justice, or other State and Federal Law enforcement agencies, and in response to orders of a court magistrate or administrative tribunal. The provisions of criminal and civil fraud statutes, including 18 USC 286, 287, 371, 641, 651, 1001; 15 USC 714m; and 31 USC 3729, may be applicable to the information provided. **RETURN THIS COMPLETED FORM TO THE KANSAS CITY COMMODITY OFFICE, MAIL STOP 8758, P.O. BOX 419205, KANSAS CITY, MISSOURI 64141-6205.**

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotope, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410 or call (202) 720-5964 (voice or TDD). USDA is an equal opportunity provider and employer.